

3/21/00 Referred from Calendar

MAR 1 2000
Place On Calendar

HOUSE FILE **2529**
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HF 466)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for the regulation of fire protection systems
2 and personnel, making an appropriation, and providing civil
3 and criminal penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2529

1 Section 1. Section 100.39, unnumbered paragraph 1, Code
2 1999, is amended to read as follows:

3 All buildings approved for construction after July 1, 1998,
4 that exceed four stories in height, or seventy-five feet above
5 grade, shall require the installation of an approved automatic
6 fire extinguishing system designed and installed in conformity
7 with rules ~~promulgated~~ adopted by the state fire marshal
8 pursuant to this chapter and chapter 100B.

9 Sec. 2. NEW SECTION. 100B.1 DEFINITIONS.

10 As used in this chapter unless the context otherwise
11 requires:

12 1. "Responsible managing employee" means an individual
13 employed full-time by a water-based fire protection system
14 contractor who is an owner, partner, or officer or in a
15 management position with such a contractor and meets any of
16 the following criteria:

17 a. The individual is currently certified by the national
18 institute for certification in engineering technologies at
19 level III or level IV in fire protection technology, automatic
20 sprinkler system layout, or another nationally recognized
21 certification in automatic sprinkler system layout recognized
22 by the state fire marshal.

23 b. The individual is a professional engineer registered in
24 Iowa who has at least three years' experience with water-based
25 fire protection systems.

26 2. "Water-based fire protection system" means a system of
27 overhead piping that is designed in accordance with fire
28 protection engineering standards, usually activated by heat
29 from a fire and which, when activated, discharges water over a
30 fire area supplied from an acceptable water supply which is
31 specially sized or hydraulically designed and installed in a
32 building, structure, or fire area to which fire sprinklers are
33 connected, and which includes a controlling valve and usually
34 a device for actuating an alarm when the system is in
35 operation. Only the portion of the water-based fire

1 protection system which is separate from the domestic water
2 system is considered the water-based fire protection system.

3 Water-based fire protection systems include wet-pipe
4 systems, dry-pipe systems, foam-water systems, pre-action
5 systems, deluge systems, water mist systems, combined dry pipe
6 and pre-action systems, fire pumps, fire protection water
7 storage tanks, antifreeze systems, and circulating closed-loop
8 systems.

9 3. "Water-based fire protection system contractor" means a
10 person engaged in the business of design, installation,
11 repair, alteration, addition, maintenance, or inspection of
12 water-based fire protection systems. However, "water-based
13 fire protection system contractor" does not include a local
14 building official, fire inspector, or insurance inspector when
15 such a person is acting in the person's official capacity, or
16 an individual employed by and working under the direction of
17 such a contractor.

18 Sec. 3. NEW SECTION. 100B.2 ADMINISTRATION -- RULES.

19 The state fire marshal shall administer this chapter and
20 may adopt rules pursuant to chapter 17A which the state fire
21 marshal considers necessary to such administration.

22 Sec. 4. NEW SECTION. 100B.3 CONTRACTOR CERTIFICATE --
23 APPLICATION -- FEE -- RENEWAL.

24 1. A water-based fire protection system contractor who
25 designs, installs, repairs, alters, adds to, maintains, or
26 inspects water-based fire protection systems in this state
27 shall obtain a contractor certificate as provided in this
28 chapter.

29 2. A water-based fire protection system contractor may
30 apply to the state fire marshal for a contractor certificate.
31 The application shall be made on a form prescribed by the
32 state fire marshal and shall include a certificate fee in an
33 amount determined by the state fire marshal by rule. Each
34 applicant must designate a responsible managing employee, and
35 may include a qualified alternate or alternates, on the

1 application, and the name of the responsible managing employee
2 and alternates shall appear on the certificate with that of
3 the water-based fire protection system contractor upon
4 issuance of the certificate. Proof of insurance as required
5 by section 100B.4 shall also accompany the application.

6 3. Within thirty days of the receipt by the state fire
7 marshal of a completed application, proof of insurance, and
8 the certification fee, the state fire marshal shall issue a
9 certificate to the water-based fire protection system
10 contractor.

11 4. A certificate shall expire on June 30 of the second
12 year following issuance. An application form for renewal for
13 an additional two-year period shall be filed at least thirty
14 days prior to expiration and shall be accompanied by a renewal
15 fee in an amount determined by the state fire marshal by rule
16 and a sworn affidavit that the responsible managing employee
17 is currently employed by the water-based fire protection
18 system contractor. A water-based fire protection system
19 contractor who fails to apply for the renewal within the time
20 stated in this subsection must make a new application for a
21 certificate.

22 5. A responsible managing employee may act as a
23 responsible managing employee for only one water-based fire
24 protection system contractor at a time. If a responsible
25 managing employee terminates the responsible managing
26 employee's association with a water-based fire protection
27 system contractor, the water-based fire protection system
28 contractor shall notify the state fire marshal within thirty
29 days after termination. The responsible managing employee
30 shall not be designated as the responsible managing employee
31 for more than two water-based fire protection system
32 contractors in any twelve-month period. The state fire
33 marshal shall revoke the certificate of a water-based fire
34 protection system contractor whose responsible managing
35 employee has terminated the responsible managing employee's

1 association with the water-based fire protection system
2 contractor unless the water-based fire protection system
3 contractor has included a qualified alternate on the
4 application or an application designating a new responsible
5 managing employee is filed within six months after
6 termination.

7 Sec. 5. NEW SECTION. 100B.4 INSURANCE.

8 A water-based fire protection system contractor shall
9 maintain general and completed operations liability insurance
10 for the design, installation, repair, alteration, addition,
11 maintenance, and inspection of water-based fire protection
12 systems providing at least one million dollars of coverage.

13 Sec. 6. NEW SECTION. 100B.5 APPLICABILITY -- EXCEPTIONS.

14 This chapter shall not be construed to do any of the
15 following:

16 1. Relieve any person from payment of a local permit or
17 building fee.

18 2. Limit the power of the state or a political subdivision
19 of the state to regulate the quality and character of work
20 performed by water-based fire protection system contractors
21 through a system of fees, permits, and inspections designed to
22 ensure compliance with, and aid in the administration of,
23 state and local building laws or codes or to enforce other
24 local laws for the protection of the public health and safety.

25 Sec. 7. NEW SECTION. 100B.6 PENALTIES.

26 1. A person who violates any provision of this chapter is
27 guilty of a simple misdemeanor.

28 2. The state fire marshal may impose a civil penalty of up
29 to two hundred fifty dollars on a person who violates any
30 provision of this chapter for each day a violation continues.
31 A violation of any provision of this chapter shall also
32 constitute grounds for revocation of a contractor certificate.

33 Sec. 8. NEW SECTION. 100B.7 DEPOSIT AND USE OF MONEYS
34 COLLECTED.

35 Any moneys or fees collected pursuant to this chapter by

1 the state fire marshal shall be deposited in the general fund
2 of the state and the moneys are appropriated to the office of
3 the state fire marshal for the purpose of administering this
4 chapter.

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EXPLANATION

6 This bill provides for the regulation of certain fire
7 protection system contractors by the state fire marshal. The
8 state fire marshal is given the authority to adopt rules and
9 administer the provisions of this new Code chapter.

10 New Code section 100B.1 defines "water-based fire
11 protection system", "water-based fire protection system
12 contractor", and "responsible managing employee" of the
13 contractor.

14 New Code section 100B.3 requires water-based fire
15 protection system contractors to apply for a certificate from
16 the state fire marshal in order to design, install, repair,
17 modify, or inspect water-based fire protection systems in this
18 state. The new section requires an application to list a
19 responsible managing employee of the contractor who shall meet
20 certain qualifications. The certificate is valid until June
21 30 following the second year after issuance and is renewable
22 for a two-year period. The bill allows the state fire marshal
23 to establish the fee for a certificate or a renewal of a
24 certificate.

25 New Code section 100B.4 requires a water-based fire
26 protection system contractor to have at least \$1 million of
27 insurance coverage.

28 New Code section 100B.5 provides that the new chapter does
29 not apply to limit the ability of the state or political
30 subdivision to regulate the work performed by water-based fire
31 protection system contractors through building codes or other
32 laws.

33 New Code section 100B.6 provides that a person who violates
34 the provisions of this new chapter is guilty of a simple
35 misdemeanor. In addition, the state fire marshal is given the

1 authority to impose civil penalties of up to \$250 per person
2 per day of violation.

3 New Code section 100B.7 appropriates moneys collected from
4 fees pursuant to this new Code chapter to the state fire
5 marshal to administer this new Code chapter.

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HOUSE FILE 2529
FISCAL NOTE

The estimate for House File 2529 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 2529 creates a new chapter within the Code of Iowa for regulation of certain fire protection system contractors by the State Fire Marshal. The State Fire Marshal is given the authority to adopt rules and administer the provisions of this new chapter, including the provision to assess fees for certification of water-based fire protection system contractors. The Bill provides a standing appropriation for revenues generated by the fees, to be appropriated to the State Fire Marshal for the purpose of administering the certification process. House File 2529 requires water-based fire protection system contractors to be certified by the State Fire Marshal in order to design, install, repair, modify, or inspect water-based fire protection systems. The application for certification shall list a responsible managing employee of the contractor who shall meet certain qualifications. The certificate is valid for two years. Water-based fire protection system contractors are required to have at least \$1.0 million of insurance coverage. The ability of the State or its political subdivisions to regulate the work performed by water-based fire protection system contractors through building codes is not limited by the Bill. A person who violates the provisions of House File 2529 is guilty of a simple misdemeanor. In addition, the State Fire Marshal is provided with the authority to impose civil penalties of up to \$250 per person per day of violation.

ASSUMPTIONS

1. There are approximately 25 fire protection system contractors operating in the State.
2. The State Fire Marshal shall assess a fee of \$200 per contractor, to be paid at the time of certification. Certification is required every two years.
3. Costs will be incurred for printing, supplies, postage and materials. Costs will be covered by the fees.
4. House File 2529 provides a standing appropriation for revenues generated by the fees, and appropriates the revenue to the State Fire Marshal for the purpose of administering the certification process.
5. Simple misdemeanors are punishable by confinement for no more than 30 days in the county jail and/or a fine of at least \$50 but no more than \$500.
6. The average daily operating cost for county jails is \$60. The marginal cost per day for one inmate is \$14.
7. The median cost for defending an indigent person charged with a simple misdemeanor is approximately \$200.
8. The average time for a Clerk of Court's Office to process an uncontested simple misdemeanor is approximately ten minutes. The cost per case is

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approximately \$2.21.

9. A contested simple misdemeanor will involve time for a district associate judge or magistrate, court attendant, and additional time for the Clerk of Court's Office. The cost ranges from \$71 to \$105 depending on whether a magistrate or district associate judge is involved.
10. According to the Justice Data Warehouse prototype (which contains data from eight counties, representing an estimated 70.0% of statewide caseloads), there was one conviction in two and one-half years for simple misdemeanor violations of existing fire marshal regulations. No significant correctional impact is foreseen under House File 2529.

CORRECTIONAL IMPACT

House File 2529 is not expected to have any significant correctional impact.

FISCAL IMPACT

The fiscal impact of imposing a penalty (simple misdemeanor) for violations of this new chapter is not anticipated to be significant.

House File 2529 will generate approximately \$5,000 every two years in certification fees. The fees are deposited in the General Fund and appropriated to the Office of State Fire Marshal to administer the certification process.

SOURCES

Criminal and Juvenile Justice Planning Division, Department of Human Rights
State Fire Marshal's Office, Department of Public Safety
Iowa State Association of Counties
Office of the State Public Defender
State Court Administrator's Office
Department of Corrections

(LSB 7112hv, BAL)

FILED MARCH 6, 2000

BY DENNIS PROUTY, FISCAL DIRECTOR